

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1785 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?
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BABUBHAI PRAHALADBHAI PATEL

Versus

THAKOR LAXMANJI KALAJI

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Appearance:

MR SG SHAH for Petitioner

MR DARSHAN M PARIKH for Respondent No. 3

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CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 25/02/97

#### ORAL JUDGEMENT

Admit. Learned advocate, Mr.Darshan M.Parikh waives service of notice of admission on behalf of respondent No.3- United Indian Insurance Company Limited. By consent of learned advocates for the parties, this appeal is taken up for hearing today.

Appellant, who is the original claimant, had sustained injuries in a vehicular accident which had taken place on May 23,1988 at 6.20 p.m. The applicant filed M.A.C.Petition No.1190 of 1988 before the Motor Accident Claims Tribunal (Auxi.) Mahesana, claiming compensation of Rs.50,000/-. By judgment and award dated November 13, 1995, the Tribunal awarded compensation to the claimant at Rs.22,355/- with interest at the rate of 15% per annum from the date of filing of the claim

petition till realisation and proportionate costs.

The appellant has challenged the judgment and award dated November 13, 1995 by filing this appeal under Section 173 of the Motor Vehicles Act, 1988.

Learned advocate for the appellant-original claimant has vehemently argued that the Tribunal has not properly assessed the monthly loss suffered by the applicant. It is submitted that the Tribunal ought to have assessed monthly loss suffered by the applicant at Rs.60/- per month.

In my opinion, there is substance in the argument of the learned advocate for the appellant. The Orthopaedic Surgeon has assessed permanent disability at 15%. In my opinion, monthly loss suffered by the applicant should have been assessed at Rs.60/- which would be annually Rs.720/-. The applicant on the date of accident was 21 years of age and, therefore, the Tribunal had applied the multiplier of 15. Hence, the appellant is entitled to Rs.10,800/- under the head of future economic loss. The Tribunal had awarded Rs.6450/towards future economic loss. Hence, the award of the Tribunal is modified and the compensation under the head of future economic loss is enhanced to Rs.10,800/-. The compensation awarded to the appellant under other heads, requires no interference and is hereby upheld.

As a result, the appellant will be entitled to receive compensation as under:

- (i) Future economic loss Rs.10,800.00
- (ii) For pain, shock and suffering Rs.10,000.00
- (iii) Medicines and other incidental expenses Rs.5,555.00
- (iv) Actual economic loss suffered by the appellant Rs. 500.00

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Total Rs.26,855.00  
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Hence, the appellant is entitled to compensation at Rs.26,855.00 with interest at the rate of 15% per annum from the date of filing of the claim petition till realisation, with proportionate costs, from the opponents jointly and severally. On the amount deposited in the Tribunal, the Tribunal shall first deduct the court fees and, thereafter, out of the amount deposited, Rs.15,000/shall be invested in a nationalised Bank in the name of the claimant in a fixed deposit for a period of five years. The claimant shall be entitled to receive periodical interest on the said FDR by account payee cheque. No loan or encumbrance shall be permitted on the

FDR. On maturity of the FDR, the said amount shall be paid to the claimant.

With the abovementioned modification of the award of the Tribunal, the appeal is partly allowed with proportionate costs.

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(swamy)